

MINUTES

INDIANA STATE BOARD OF DENTISTRY

SEPTEMBER 5, 2008

I. CALL TO ORDER AND ESTABLISHMENT OF QUORUM

Dr. Williams called the meeting to order at 9:00 a.m. in the Professional Licensing Agency Conference Room W064, Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana, and declared a quorum in accordance with Indiana Code § 15-5-1.1-6(c).

Board Members Present:

Galen Williams, D.D.S., President
Jill Burns, D.D.S., Vice President
Matthew Miller, D.D.S., Secretary
Richard T. Newton, D.D.S.
Gary Haller, D.D.S.
Theodore Rokita, D.D.S.
Philip Catey, D.D.S.
Steven Hollar, D.D.S.
Laverne Whitmore, L.D.H., B.S.
Clance LaTurner, Consumer Member

Board Member Absent:

Charles Heape, D.D.S.

State Officials Present:

Cindy Vaught, Board Director, Professional Licensing Agency
Kristine Yarde, Assistant Board Director, Professional Licensing Agency
Liz Brown, Deputy Attorney General, Office of the Attorney General

II. ADOPTION OF THE AGENDA

A motion was made and seconded to adopt the agenda, as amended.

HOLLAR/LaTURNER

Motion carried 10-0-0

III. ADOPTION OF THE MINUTES FROM THE JULY 11, 2008 MEETING OF THE BOARD

A motion was made and seconded to adopt the minutes of the July 11, 2008 meeting of the Board.

BURNS/LaTURNER

Motion carried 10-0-0

IV. PERSONAL APPEARANCE

A. Donald C. Findlay, D.D.S.

Volunteer Dental Director, Heart City Dental Center
Re: New Statutory Requirements

Dr. Findlay told the Board about his non-profit clinic he runs called "The Heart City Dental Center". He explained it is a comprehensive dental practice that provides dental care four days a week to the under-served or working poor on a sliding fee schedule. He stated that they have been very successful in Elkhart County and he volunteers two days a week while employing one salaried dentist who works two days a week and one full time hygienist, one part-time hygienist, and two dental assistants. Dr. Findlay stated he is a member of the Elkhart County Board of Health and continues to develop community-based dental programs. Dr. Findlay asked the Board to consider the dental needs of lower income citizens and to consider community dentistry needs when they write rules for the new statute concerning prescriptive hygiene services. Dr. Burns explained that the Rules Committee of the Board is still considering several options before writing those rules, one of which is how to determine which charitable clinics will be granted approval in order to have prescriptive supervision of dental hygienists.

V. APPEARANCES

A. PROBATIONARY

1. Tammy Bacon, L.D.H., License No. 13005564A
Administrative Cause No. 2008 ISDB 0005

Ms. Bacon appeared before the Board, as requested, regarding her probationary status. The Board told Ms. Bacon they have not received reports from the Alpha Resource Program. Ms. Bacon stated she would call them to have the reports sent. She told the Board things are going well and she is not currently taking any medications.

2. Teresa Michelle Goodman, D.D.S., License No. 12010271A
Administrative Cause No. 2006 DB 0003

Dr. Goodman appeared before the Board, as requested, regarding her ongoing probationary status. Dr. Goodman told the Board things are going well and she is only taking Cymbalta. She asked the Board about having her DEA registration reinstated. The Board reviewed her Probation Order and noted that her Order dated December 22, 2006 states she may not seek reinstatement of her Controlled Substance Registration (CSR) and DEA registration for a period of two (2) years from the date of execution of the Findings of Fact and Order. She will not need to modify her probationary order. Dr. Goodman will need to apply to the Controlled Substance Advisory Committee for reinstatement of the CSR after December 22, 2008.

3. Trevor Treasure, D.D.S., License No. 12010719A
Administrative Cause No. 2007 ISDB 0002

Dr. Treasure appeared before the Board, as requested, regarding his ongoing probationary status. Dr. Treasure stated that the Controlled Substance Advisory Committee granted his request to renew his CSR back on July 25, 2008. But at this time he does not have his DEA registration reinstated. He informed the Board of the medications he is taking and advised that things are busy at IU but going very well.

B. APPLICATION

1. Robert J. Caird, DDS
Re: Mobile Dental Facility

Dr. Caird appeared before the Board, as requested, regarding his application for registration of a mobile dental facility. Judy Caird, who is a dental assistant, appeared with him. He told the Board he is a contracted dentist with Mobile Care 2 U but is seeking his own mobile dental facility registration to provide additional services to three other nursing homes. Dr. Caird explained the communication facility would be his home telephone number and his cell phone number which would make him available twenty-four (24) hours a day. Dr. Caird explained he owns his own equipment and would be able to independently operate beyond his work with Mobile Care 2 U. A copy of the record would be left at the facility and x-rays would be stored at his home. The Board suggested using duplicate x-rays and keeping one copy at the facility. The Board expressed a geographical concern since the law at this time does not allow the Board to limit the number of facilities where a mobile unit can practice. Dr. Caird said he understood the Board's concern but would not spread himself too thin.

Board Action: A motion was made and seconded to approve the registration of the mobile dental facility for Dr. Caird.

BURNS/HOLLAR
Motion carried 10-0-0

C. RENEWAL

VI. ADMINISTRATIVE HEARINGS

A. State of Indiana v. Edward T. Mamaril, D.D.S., License No. 12008594A
Administrative Cause No. 2008 ISDB 0001
Re: Complaint

Parties and Counsel Present:

Respondent was present and was represented by Counsel Thomas Trauring
Krista Jewsbury, Deputy Attorney General for the State of Indiana
Felicia Warren, Court Reporter

Participating Board Members:

Dr. Williams (Hearing Officer)
Dr. Burns
Dr. Miller
Dr. Newton
Dr. Hollar
Dr. Catey
Dr. Haller
Dr. Rokita
Ms. Whitmore, L.D.H., B.S.
Ms. LaTurner

Case Summary: The State informed the Board that they had reached a settlement agreement with the Respondent and his counsel, Mr. Trauring, but their agreement was not accepted by the Board designee during a settlement conference. Mr. Trauring requested the Board to grant a continuance of this

hearing until the next board meeting to allow both sides time to prepare their case and call witnesses.

Board Action: A motion was made and seconded to grant a continuance of the hearing in this matter until October 5, 2008.

LaTURNER/CATEY
Motion carried 10-0-0

VII. SETTLEMENT AGREEMENTS

There were no settlement agreements before the Board.

VIII. NOTICE OF PROPOSED DEFAULT

There were no Notices of Proposed Default before the Board.

IX. OLD/NEW BUSINESS

An IDA representative asked the Board if the Attorney General's Office can do a cease and desist order against someone who is practicing dentistry without a license. Advisory Counsel Liz Brown said statute does allow the Attorney General's to do this if they have the evidence but there is a lot of question as to how this is being done. There are several ways teeth whitening are being done and the technical definition of practicing dentistry may not be violated. Dr. Rokita noted that prosecutors are not making this a priority. Ms. Whitmore expressed her frustrations concerning the Board's inability to have an effect on people practicing dentistry without a license.

X. DISCUSSION

A. Rule Readoption LSA 08-336

Re: 828 IAC 0.5-2-5 Registration of mobile dental facilities and portable dental operations

828 IAC 0.5-2-6 Continuing education; sponsor approval fees

828 IAC 1-2-10 Dismissal of candidate for use of unfair assistance

828 IAC 1-3-3 "Satisfactory practice of a dental hygiene" defined

828 IAC 1-3-4 Dental licensure by endorsement; failure to renew expired license

828 IAC 1-3-5 Dental hygiene licensure by endorsement; failure to renew expired license

828 IAC 1-5-1 Application for approval of study clubs

828 IAC 1-5-1.5 Application for approval of study clubs

828 IAC 1-5-2 Application for approval of organizations or individuals

828 IAC 1-5-2.5 Individual or organization sponsors approval; expiration

828 IAC 1-5-4 Civil penalties for a dental hygienist

828 IAC 1-5-5 Civil penalties for a dentist

828 IAC 1-6 Dental Hygienists; License Renewal

828 IAC 1-7 Inactive Dental License

828 IAC 4 Mobile Dental Facilities and Portable Dental Operations

Ms. Vaught explained to the Board that administrative rules expire every seven (7) years if they are not readopted. The Board is required to review the rules to be readopted and determine that proposed rules do not impose any cost and requirements on small businesses pursuant to IC 4-22-2.5-3.1(C).

The proposed rules for readoption are 888 IAC 1.1-3 regarding fees which are listed below:

Board Action: After review and having considered the costs and requirements on small businesses pursuant to IC 4-22-2.5-3(c), a motion was made and seconded to readopt the rules.

HALLER/BURNS
Motion carried 10-0-0

B. Steven J. Holm, D.D.S., Adjunct Faculty
Indiana University Northwest
Re: Grading of Patients

The Board reviewed a letter from Dr. Holm asking for a legal opinion about whether or not dentists can grade Class III or Class IV periodontal patients. He stated the reasoning for this was dental hygienists see this type of patient routinely and are better qualified to grade clinical competence. The Board asked Ms. Vaught to write a letter to Dr. Holm explaining they do not regulate or have jurisdiction of the schools. The Board is unable to issue an opinion.

XI. APPLICATION REVIEW

A. Endorsement

1. William David Browning, D.D.S.

The Board reviewed Dr. Browning's application file by endorsement. Dr. Browning is a 1974 graduate of the University of Michigan. He has taken and passed the National Boards in 1972 and 1974 and the NERBS in 1974. He is currently licensed in the state of Michigan, holds a dental faculty license in the state of Georgia and a retired license in the state of Tennessee. On his application he answered 'yes' to question #7 asking, "Have you ever had a malpractice judgment against you or settled any malpractice action?" Dr. Browning explained in a written statement to the Board that one of his patients presented with a piece of porcelain fractured on an anterior bridge. Dr. Browning did not agree that problem was the bridge; he said the patient had a grinding habit and needed a bite splint and a mandibular removable partial denture for posterior support. They used peer review to resolve the issue and the peer review committee believed that the porcelain was not properly supported with metal framework, and recommended the bridge be redone. Dr. Browning did a refund instead because he was no longer practicing in Michigan. Dr. Browning did not provide copies of his continuing education certificates as required. He submitted a summary of programs attended with an explanation as to why certificates are not provided.

Board Action: A motion was made and seconded to grant Dr. Browning a dental license upon passing the law examination and submitting copies of his continuing education certificates.

CATEY/BURNS
Motion carried 9-0-0
Dr. Miller was not present

2. Raul Ernesto Lugo-Bonet, D.D.S.

The Board reviewed Dr. Lugo-Bonet's application file by endorsement. Dr. Lugo-Bonet received his Doctor of Dental Medicine degree from the University of Puerto Rico and has been a practicing dentist in Puerto Rico since March 2001. For the regional examination he has taken an examination administered by the Puerto Rico Board of Dental Examiners which would be acceptable. Dr. Lugo-Bonet has not taken the National Board examination. Based upon the administrative rules, Dr. Lugo-Bonet would be required to take and pass the National Boards.

Board Action: A motion was made and seconded to advise Dr. Lugo-Bonet that he must take and pass the National Boards prior to review of his application for licensure. His application will remain pending for a period of one year from the original date his application was submitted.

CATEY/BURNS
Motion carried 9-0-0
Dr. Miller was not present

3. Cressida Bradshaw, L.D.H.

The Board reviewed Ms. Bradshaw's application file by endorsement. Ms. Bradshaw is a 2003 graduate of Loma Linda University and passed the National Boards in 2003 and the NERBS in 2003. She is currently licensed in the state of Illinois and Michigan. On her application she answered "yes" to question #5b asking, "Have you ever been convicted of, pled guilty or nolo contendere to any offense, misdemeanor or felony in any state?" Ms. Bradshaw told the Board she was convicted of forgery in 1995 and served forty-five days in jail followed by six months of work release and two years of probation. She successfully completed all of the court requirements. Ms. Bradshaw explained she was working as a bookkeeper at a grocery store and was in a relationship with the night manager. He told her to give him all of the credit cards that had been left by customers at the cash registers and she gave them to him not realizing what he would do. Ms. Bradshaw only submitted one letter of recommendation and an explanation that she was unable to get two (2) more letters of recommendation as required. She asked that the Board to accept the two (2) letters dated more than two years ago.

Board Action: A motion was made and seconded to grant Ms. Bradshaw a dental hygiene license upon passing the law examination and the submission of two (2) current letters of recommendation as required by the administrative rules.

ROKITA/LaTURNER
Motion carried 9-0-0
Dr. Miller was not present

4. Apryll L. Freeman, L.D.H.

The Board reviewed Ms. Freeman's application file by endorsement. Ms. Freeman is a 2002 graduate of Loma Linda University and passed the National

Boards in 2002 and a California state constructed examination in 2002. Ms. Freeman took the California state clinical exam but the Board will not release the scores of the examination for confidentiality reasons and will only state the clinical examination requires a passing score of 75%. Ms. Freeman's file was complete with the exception that one of her letters of recommendation was not signed.

Board Action: A motion was made and seconded to grant Ms. Freeman a dental hygiene license upon passing the law examination and submission of a signed letter of recommendation.

CATEY/BURNS
Motion carried 9-0-0
Dr. Miller was not present

5. Elliot Paul Schlang, D.D.S.

The Board reviewed Dr. Schlang's application file by endorsement. Dr. Schlang is a 1974 graduate of UCLA and has taken and passed the National Boards in 1971 and 1973 and a California state constructed examination. On his application he answered "yes" to question #7 asking, "Have you ever had a malpractice judgment against you or settled any malpractice action?" Dr. Schlang explained in a written statement that he has been practicing general dentistry in California since 1974 and in that time there have been three malpractice reports made to the National Practitioners Data Bank. He claimed in two cases he did not ever see or treat the patients but he was named because they were treated by his associates. One case did involve endodontic treatment he performed on a patient that failed and he did not inform the patient that he could have referred her to an endodontist and possibly have a better outcome.

Board Action: A motion was made and seconded to grant Dr. Schlang a dental license upon passing the law examination.

CATEY/BURNS
Motion carried 9-0-0
Dr. Miller was not present

B. Examination

There were no examination applications to review.

C. Anesthesia and Sedation Permits

There were no anesthesia permits to review.

D. Dental Intern Permit

There were no dental intern permits to review.

E. Mobile Dental Facility

There were no mobile dental facility applications to review.

F. Instructors License

1. Andrea Ferreira Zandona, D.D.S.

Dr. Zandona appeared before the Board regarding her application for an instructor's license. She explained to the Board her goal is to teach and do research at the Indiana University School of Dentistry. Dr. Zandona is a 1991 graduate of the Pontifical Catholic University of Parana located in Brazil. She has been licensed in Brazil since May 7, 1991. Ms. Whitmore, L.D.H. B.S. noted her opinion that if Dr. Zandona is going to be a clinical instructor then she needs to take a clinical examination. Dr. Zandona stated she is not trying to obtain a permanent license because of the time commitment it would require but will maintain an active license in Brazil.

Board Action: A motion was made and seconded to grant Dr. Zandona an instructor's license at Indiana University School of Dentistry.

HOLLAR/WHITMORE

Motion carried 10-0-0

G. Professional Corporations

There were no professional corporation applications to review.

XII. RENEWALS

A. Kevin Thornsberry, D.D.S.

The Board reviewed the renewal application for Dr. Thornsberry's dental intern permit to continue working as a clinical supervising dentist at Indiana University Northwest.

Board Action: A motion was made and seconded to approve the renewal of Dr. Thornsberry's dental intern permit.

BURNS/HALLER

Motion carried 9-0-1

Dr. Miller abstained

B. Richetta A. Willis, L.D.H.

The Board reviewed the file of Ms. Willis. Her Indiana dental hygiene license has been expired since March 1, 1998. Ms. Willis has taken and passed the NERB examination and submitted a new application and documentation for issuance of a new dental hygiene license which was received on July 3rd, 2008. On July 1, 2008 the law changed, reapplication was eliminated. The licensee is required to reinstate the delinquent license. The statute requires that if a license is delinquent three (3) or more years they would be required to complete a renewal application, pay the current renewal and reinstatement fee, completion of continuing education, and complete such remediation and additional training as deemed appropriate by the Board given the lapse of time involved. The Board determined after review her application and documentation she will need to complete a renewal, pay a fee of \$150 and complete continuing education. The Board requested that Ms. Willis contact Indiana University South Bend to set up a continuing education program designed specifically for her based upon the time she has been out of practice. After an outline of a program has been compiled, Ms. Willis will need to appear before the full board for approval prior to beginning. Ms. Willis will also need to complete the two (2) hour course in

Ethics, Professional Responsibility and Indiana Jurisprudence and retake the law exam.

XIII. PROBATIONARY/CONDITIONAL LICENSE REPORT

A. James Cahillane, D.D.S.

Dr. Miller reviewed Dr. Cahillane's probationary file. His report from the Indiana Dental Well-Being Program for July and August 2008 was reviewed and accepted.

B. Penelope Dunlap, D.D.S.

Dr. Miller reviewed Dr. Dunlap's probationary file. Her worksite monitoring report from Dr. Hake for July 2008 were reviewed and accepted. Dr. Miller requested that a letter be sent to Dr. Dunlap asking about whether she has completed her presentation to the senior year dental students at Indiana University.

C. Christopher Leonard, D.D.S.

Dr. Miller reviewed Dr. Leonard's probationary file. His report from his worksite monitor, Jerry Hickman, D.D.S. for June 2008, Indiana Dental Association Well-Being Program for July and August 2008 were reviewed and accepted. Dr. Leonard is scheduled for his next probationary appearance on October 3, 2008.

D. Bland Walker, D.D.S.

Dr. Miller reviewed Dr. Walker's probationary file. His report from the Indiana Dental Well-Being Program for July and August 2008 was reviewed and accepted.

E. Emery J. Spisak, D.D.S.

Dr. Miller reviewed Dr. Spisak's conditional licensure file. Dr. Spisak did not submit proof of continuing education at the time of renewal as requested by the Board. The Board renewed his license on a conditional status. He was required to pay a fine of \$1000 and provide proof of completion of twenty (20) hours of continuing education (CE) by December 9, 2008. Dr. Spisak paid the fine on June 12, 2008 and submitted proof of completion of twenty (20) hours of CE. His CE was reviewed and accepted. Dr. Spisak has completed the requirements of the Board.

XIV. CONTINUING EDUCATION

A. Eric Pulver, D.D.S.

Dr. Newton reviewed the program material and proposed two (2) hour approval for a CPR course.

Board Action: A motion was made and seconded to grant Eric Pulver, D.D.S. approval as a continuing education sponsor until March 2, 2010.

HALLER/WHITMORE
Motion carried 10-0-0

B. Kurt VanWinkle, DDS MSD

Dr. Newton reviewed the continuing education application for Kurt Van Winkle, DDS, MSD and proposed two (2) hours for the course in periodontal plastic surgery and two (2) hours for the laser program.

Board Action: A motion was made and seconded to grant Kurt VanWinkle, DDS, MSD approval as a continuing education sponsor until March 2, 2010.

HALLER/NEWTON
Motion carried 10-0-0

XV. REPORTS

- A. Dr. Burns passed out a list to each board member listing the topics they are responsible for researching and writing about. Dr. Williams asked Dr. Newton to do an article on advertising for the IDA newsletter or the Indiana Dentist. The Board discussed working on rules for several areas such as:
- Permit for those doing charitable work
 - Mobile dental facility guidelines, Dr. Haller said he would like to contribute to this topic.
 - Rules to clarify the issuance of dental intern permit
 - Redo the definitions of "dentistry" and "dental hygiene" so they reflect real life operations.
- B. Dr. Hollar informed the Board the mock dental board meeting has been scheduled at Indiana University School of Dentistry (IUSD) for December 5, 2008 from 12:30p.m. to 1:30 p.m. Dr. Hollar asked which board members would like to volunteer to do this meeting. Dr. Burns and Ms. LaTurner both volunteered. Dr. Hollar stated that Dr. Willis did not think videoconferencing could be accomplished this time around so the meeting will only include senior dental students and last year dental hygiene students. The Board discussed videotaping it and sending copies to other dental hygiene programs in the state.

XVI. ASSOCIATION REPORTS

- A. **Indiana Dental Association**
They reported that teeth whitening continues to be an issue and they are cataloging complaints they receive.
- B. **Indiana Dental Hygiene Association**
No report was given by IDHA

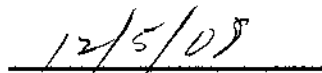
XVII. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana State Board of Dentistry adjourned at 11:00 p.m.


Galen Williams, D.D.S., President


Date


Matthew Miller, D.D.S., Secretary


Date

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